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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 342

JACKSONVILLE PAPER COMPANY,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

REPLY BRIEF FOR PETITIONER.

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The bits of testimony picked out and stated in the Board's brief, pages 2 to 7, are neutralized and rendered of no consequence by the findings of fact stated in the opinion of the Court of Appeals down to the last paragraph thereof. The opinion is now reported as *Jacksonville Paper Company* v. *N. L. R. B.*, 137 Fed. (2d) 148.

The opinion and the record show that the supposed derogatory statements testified to by Board witnesses but denied by petitioner's witnesses, had no effect on the employee Aaron or any other employee even if such statements were made. Likewise, petitioner's knowledge of Aaron's membership and of Soriano's membership in the union had no effect whatsoever on petitioner's dealings with Aaron, Soriano or any other employee. The Court of Appeals in positive terms so found. Actions speak louder than words. So here the dealings between the petitioner and its employees, including Aaron and Soriano

speak louder and more effectively than the self-impeached statements of Soriano relied upon in the Board's brief.

The Board's brief does not attempt to answer any of the five questions of law presented by the petition filed in this cause save the first question. As to the first question it is claimed that the petitioner was not taken by surprise. The record as interpreted by the trial examiner, Vol. I, p. 59, and as interpreted by the Board, Vol. I, p. 85, shows that throughout the proceedings before the Board there was under consideration a complaint of *discharge* of Henry Soriano on a certain date and not a failure or refusal to hire or reinstate. The effort now made to shift to some other ground is wholly unwarranted by the record and wholly unwarranted by the findings of the Fifth Circuit Court of Appeals. Our analysis of the record, pages 2 to 4 of the Petition filed herein, has not been answered. Neither has Question No. I discussed pages 7 to 8 of the petition.

The Board's brief has not answered or even touched upon Questions II, III, IV or V of the Petition, stated pages 9 to 14 thereof. Neither has any effort been made to answer the force and effect of the authorities cited by us in support of our answers to the said Questions II to V, inclusive.

We now respectfully submit that the reasons assigned for granting writ of certiorari, pages 16 and 17 of the Petition, are still unshaken and that the writ should issue.

Respectfully submitted,

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